

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 1:19-cr-057

Civil Case No. 1:22-cv-00665

- vs -

District Judge Susan J. Dlott

Magistrate Judge Michael R. Merz

DeANGELO CONLEY,

Defendant.

:

REPORT AND RECOMMENDATIONS

The Motion to Vacate in this case has been referred to the undersigned under Amended General Order 22-05 (ECF No. 384). Defendant claims this Court should modify his sentence to give him credit for jail time spent on a related state court case (ECF No. 334). The United States responded to the Motion to Vacate by noting that the Court has no jurisdiction to override a Bureau of Prisons determination of time to be served (Memorandum in Opposition, ECF No. 335, citing *United States v. Wilson*, 503 U.S. 329, 333(1992)). The United States also indicates the Bureau of Prisons has in fact credited Defendant with the time he claims. *Id.* at PageID 2156, showing that Defendant is to be released November 12, 2024, after serving two and one-half years even though he was sentenced to sixty months by this Court.

Review of the *Wilson* decision confirms the proffered holding: it is the Attorney General who is to give jail time credit through the Bureau of Prisons, and not the Court. Furthermore, Defendant has not responded to the Government's assertion that he has in fact received the credit he claims.

Accordingly, it is respectfully recommended that the Motion to Vacate be dismissed with prejudice.

March 22, 2024.

s/ Michael R. Merz
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6, but service is complete when the document is mailed, not when it is received. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #